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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 NATIONAL PRODUCTS, INC.,

11 Plaintiff,

12 v.

13 GAMBER-JOHNSON LLC,

14 Defendant.

CASE NO. C08-0049JLR

ORDER DENYING POST-TRIAL
MOTIONS

15 Before the court are three post trial motions: Defendant Gamber-Johnson LLC's
16 ("Gamber-Johnson") renewed motion for judgment as a matter of law pursuant to Rule
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1 50(b) (Dkt. # 272);¹ Gamber-Johnson’s motion pursuant to Rule 59 (Dkt. # 274);² and
 2 Plaintiff National Products, Inc.’s (“NPI”) motion to alter or amend the judgment and
 3 renewed motion for judgment as a matter of law (Dkt. # 276).³ Having reviewed the
 4 motions, the papers in support and opposition, and the trial transcript, the court DENIES
 5 the motions. (Dkt. ## 272, 274, 276.)

6 Gamber-Johnson and NPI compete in the vehicle laptop mounting business. As
 7 the name of the area of business suggests, the companies design and sell mounting
 8 systems for laptops in vehicles. This dispute relates to a video produced by Gamber-
 9 Johnson titled “The Mounting Evidence.” The video purports to set forth the opinion of
 10 airbag safety expert, David Long, as to the safety benefits of purchasing a Gamber-
 11 Johnson mounting system versus other mounting systems in the market, including one
 12 developed by NPI called the “RAM.” NPI sued Gamber-Johnson for false advertisement

14 ¹ Gamber-Johnson renews its motion for judgment as a matter of law pursuant to Federal
 15 Rule of Civil Procedure 50(b) arguing: (1) it did not make any false or actionable statements; (2)
 16 the record did not support a “test prove” theory of the case; (3) NPI did not prove that the
 17 statements were literally false; (4) the jury’s finding of deliberateness lacked support in the
 record; and (5) NPI did not prove that it suffered any injury caused by the false statements. (*See*
generally Gamber-Johnson Mot. for JMOL (Dkt. # 272).)

18 ² Gamber-Johnson moves for a new trial pursuant to Federal Rule of Civil Procedure
 19 59(a) because (1) the jury’s liability finding was contrary to the great weight of the evidence; and
 20 (2) the jury was instructed on the “test prove” theory. (*See generally* Gamber-Johnson Mot. for
 new trial (Dkt. # 274).) Finally, Gamber-Johnson moves for two amendments to the judgment
 pursuant to Rule 59(e): (1) an adjustment of the profit margin it used in calculating damages; and
 (2) an amendment to the judgment to vacate the attorneys’ fees award. (*Id.*)

21 ³ NPI moves to alter or amend the judgment pursuant to Federal Rule of Civil Procedure
 22 59(e) to (1) reinstate the jury’s original award of \$10,000,000; and (2) to correct the court’s
 finding that NPI had not shown that every purchaser saw the video during the relevant time
 period. (*See generally* NPI’s Mot. to Alter or Amend (Dkt. # 276).)

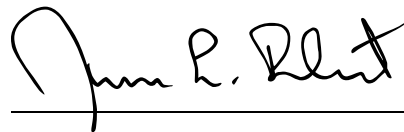
1 under the Lanham Act based on allegedly false statements made in the video regarding its
2 RAM product.

3 The matter was tried to a jury in April 2010. The four-day trial concluded on
4 April 9, 2010. On April 12, 2010, after deliberating for less than three hours, the jury
5 returned a verdict for NPI finding that Gamber-Johnson had deliberately engaged in false
6 advertising and awarded NPI \$10,000,000 in damages. (*See* April 12, 2010 Verdict (Dkt.
7 # 191).) The jury found that four of the statements made in the video relating to the NPI
8 product were false or misleading. The following day, the court ordered that the parties
9 submit supplemental briefing on Gamber-Johnson's motion for judgment as a matter of
10 law addressing the jury's award of damages and additional briefing on NPI's request for
11 injunctive relief. (Dkt. # 192). After a full hearing on the issues raised by the parties in
12 their post-trial motions, on August 13, 2010, the court issued an order granting in part and
13 denying in part all post-trial motions. ("August 13 Order" (Dkt. # 247).) In the August
14 13 Order, the court granted Gamber-Johnson's motion for judgment as a matter of law
15 and adjusted the jury's award of damages from \$10,000,000 to \$492,332.⁴ The court
16 denied the remaining arguments raised in Gamber-Johnson's motion. The court also
17 granted NPI's motion for a permanent injunction, and its motion for attorney's fees and
18 costs.

21 ⁴ Although the court characterized its decision to reduce the jury award as granting
22 Gamber-Johnson's motion for judgment as a matter of law, the court also explained that its
analysis of whether to modify the monetary award was guided by "the principles of equity."
(August 13 Order at 4 (quoting 15 U.S.C. § 1117(a)).)

1 On September 13, 2010, the parties renewed their post-trial motions, which
2 essentially ask the court to reexamine the rulings made in the August 13 Order. Because
3 the court declines to conduct a second—and with respect to some of the issues, third—
4 analysis of the issues raised in these renewed post-trial motions, the court incorporates its
5 August 13 Order herein and DENIES the motions (Dkt. ## 272, 274, 276).

6 Dated this 10th day of November, 2010.

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JAMES L. ROBART
United States District Judge